

UNITED STATES DISTRICT COURT

DISTRICT OF DELAWARE

NORWOOD WYATT

V.

Ca. No. 05-655-KAJ

FIRST CORR. MEDICAL and

DR. SITA GOMBEH ALI

FILED

JUL 31 2006

U.S. DISTRICT COURT
DISTRICT OF DELAWARE

BD scanned

REPLY TO DEFENDANT'S MOTION FOR DISMISSAL

Defendant's claims of denial are misplaced. A suit brought under 42 USC § 1983 is the proper venue for the plaintiff's claims.

Plaintiff has stated a claim with regards to a violation of firmly established Constitutional rights, in particular, the 8th Amendment right to be free from cruel and unusual punishment. The plaintiff avers that there are questions of fact regarding the amount of pain and suffering the plaintiff endured due to defendant's negligence and wanton indifference.

Although plaintiff's claims may not be couched in formal legalese, the plaintiff is pro se, and thus is entitled to have his pleadings read with a degree of liberty not normally associated with pleadings filed by an attorney. Furthermore, plaintiff is moving this Court for the appointment of counsel.

Plaintiff will also demonstrate that he has exhausted all his administrative remedies, even going beyond the remedies proscribed by statute and regulation.

The plaintiff has alleged medical harm sufficient to establish deliberate indifference to his serious medical needs, pursuant to Estelle v. Gamble, 97 S.Ct. 285 (1976).

Defendant's claim that plaintiff is required to file an affidavit of merit, pursuant to 18 Del.C. § 6853, is also misplaced, whereby, subsection 6853 is only applicable to suit brought in the state court.

Plaintiff has stated a claim upon which relief can be granted. Moore v. Bennette, 97 Fed.Appx. 405 (4th Cir.2004).

Wherefore, plaintiff moves this Court to deny defendant's motion to dismiss, and appoint counsel in plaintiff's behalf.

7-25-2006

DATE

Norwood Wyatt

Norwood Wyatt, #1671B7
Del.Corr.Cntr.
1181 Paddcok Rd.
Smyrna, DE 19977-9679

Certificate of Service

I, NORWOOD WYATT, hereby certify that I have served a true
And correct cop(ies) of the attached: REPLY TO DEFENDANT'S MOTION
TO DISMISS upon the following
parties/person (s):

TO: Dana Spring Monzo, Esq.
P.O. Box 397
Wilmington, DE
19899-0397

TO: _____

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE, and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 25th day of July, 2006

Norwood Wyatt

IM Holwood Wyatt
SBI# 167137 UNIT S.1.C.17
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977



WILMINGTON DE 197
29 JUL 2005 PM 1:1

Clerk of the Court

United States District Court
844 N King Street Lock Box 18
Wilmington Delaware

19801

*U.S.A.
Kerry*

4550143313 *Individually handled*